

**Version with markings to show changes made:**

1. (Amended) A wristwatch guard for protecting a wristwatch, comprised of a watch body and a watch band, worn on a user's wrist, comprising:
  - a. a circular band of elastomeric material, forming an inner surface and an outer surface with said inner surface being proximate said user's wrist and said outer surface being distal to said user's wrist, having an upper portion and a lower portion, wherein said lower portion is transected by an adjustment break which allows the diameter of said circular band to be adjusted to accommodate variation in the diameter of said wrist of said user;
  - b. wherein said upper portion opens into a body cutout passing completely therethrough, having a first end and a second end, with said body cutout being oriented transverse to the central axis of said wrist of said user, and being large enough to allow the passage of said watch body therethrough so that said watch body rests on said outer surface when said wristwatch guard is installed on said wristwatch;
  - c. wherein said upper portion opens into a first band cutout passing completely therethrough, being positioned near said first end of said body cutout, and being oriented parallel to said central axis of said wrist of said user, and being large enough to allow the passage of said watch band therethrough; [and]
  - d. wherein said upper portion opens into a second band cutout passing completely therethrough, being positioned near said second end of said body cutout, and being oriented parallel to said central axis of said wrist of said user, and being large enough to allow the passage of said watch band therethrough, so that said

watchband encircles said user's wrist inside of said inner surface of said circular band, yet remains attached to said watch body resting on said outer surface of said circular band[.] and:

- e. wherein said body cutout, said first band cutout, and said second band cutout lie entirely within said circular band.

2. (Amended) The device as recited in claim 1, wherein said upper portion further comprises a cover flap, attached to said [guard] circular band, and positioned to close over said upper portion so that said watch body is sandwiched between said outer surface and said cover flap, thereby protecting said wristwatch.

## REMARKS

The Examiner rejected claims 1 and 2 under 35 U.S.C. §102(b), on the basis of a newly-discovered patent to Fletcher (U.S. 5,332,135). Claims 3 and 4 were rejected under 35 U.S.C. §103(a), on the basis of Fletcher in view of Kartsotis et.al. The Applicant has elected to present amendments and arguments primarily directed to claims 1 and 2. As claims 3 and 4 depend from claims 1 and 2, this response addresses all the rejections.

The Examiner appended Fletcher's FIG. 1 to her response, along with labels corresponding to her analysis. This level of detail is greatly appreciated by the undersigned attorney. In order to analyze the claims of the present application, it is most convenient to compare Fletcher's FIG. 1 to FIG. 1 of the present disclosure (hereinafter "Kinney"). Kinney's FIG. 1 shows a circular band including an "I"-shaped cutout designed to allow the watch body and the attached portions of the watch band to slip through and rest on top of the circular band. These are labeled as body cutout (14) and the first and second band cutouts (24). Kinney's FIG. 4 shows how these elements function. Because the band is made of flexible material, the watch body can be pushed through body cutout (14), with the attached portions of the watch band coming to rest in the two band cutouts (24). No closures or fasteners are needed for these cutouts, since they reside entirely within the circular band (i.e., they do not intersect one of the band's edges). *not claim*

Additional limitations are recited in the claims: Body cutout (14) is specified as being transverse to the central axis of the user's wrist. The two band cutouts (24) are specified as being parallel to the central axis of the user's wrist.

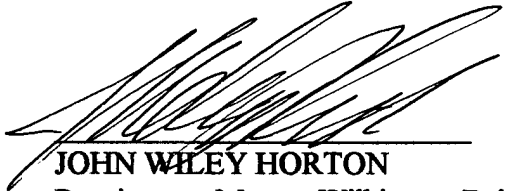
Fletcher's FIG. 1 shows two band cutouts. It does not show a body cutout. The Fletcher device operates without a body cutout via having the two band cutouts intersect one edge of the circular band. The watch body is slipped laterally into position via sliding the watch band through

these two intersections of the band cutouts. The watch is retained in position via closing off the two intersections of the band cutouts with a separate fastening device.

The present claims, as amended, specify that the body cutout, the first band cutout, and the second band cutout lie entirely within the circular band (Absent the strictures of claim language, one would likely define this by saying that these elements "do not intersect an edge of said circular band," but this would likely run afoul of the prohibition on "claiming a negative."). Thus, the present claims contain a substantial element (a body cutout) and a substantial limitation (no intersection between the band cutout and an edge of the circular band) not found in the prior art. Further, these differences allow the Kinney device to function in a substantially different way. With the Kinney device, the user can install the watch within the protector without having to manipulate fastening features.

In view of the above amendments, the Applicant believes that the remaining claims are in condition for allowance.

Respectfully submitted this 6<sup>TH</sup> day of MAY, 2003.



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